



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D.C. 20226

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GUIDELINES FOR LABELING DILUTED SPIRITS

Proprietors of Distilled Spirits Plants
and Others Concerned:

Purpose. This circular is to inform industry members that an ATF Ruling will be published in the ATF Bulletin which will prescribe guidelines for labeling diluted spirits. The ruling will read as follows:

The Bureau of Alcohol, Tobacco and Firearms has been requested to explain the application of regulations relating to the labeling of various distilled spirits that are diluted with water for bottling below the minimum bottling proofs prescribed in 27 CFR 5.22.

The regulations in 27 CFR 5.22 provide that various classes and types of whisky and other distilled spirits shall be bottled at not less than 80 degrees of proof. Section 5.22 does not provide any tolerance below 80 degrees of proof with respect to the eligibility of such spirits to bear its designations. However, as a matter of practical necessity, the regulations in 27 CFR 201.333, 201.459, and 201.470k specifically provide, in part, that bottles of spirits shall be so labeled that the bottled spirits agree in proof with the data on the label except for an allowance for a normal drop in proof occurring during the bottling process not to exceed three-tenths of a degree. The Bureau has always required distilled spirits to be labeled as "Diluted" if the spirits exceeded the three-tenths of a degree allowance or, even though within such allowance, if the variation was not due to a normal drop in proof occurring during the bottling process.

Moreover, in Circular FA-91, dated January 21, 1937, (relating to a digest of interpretations of Regulations 5, concerning the labeling and advertising of distilled spirits), the Administrator of the Federal Alcohol Administration (a predecessor agency administering the Federal Alcohol Administration Act) ruled that with

regard to the labeling of an underproof product there must appear immediately following and in direct conjunction with the class and type designation for such product the actual proof thereof and the phrase "United States Government Standard for _____ Requires Not Less Than 80° Proof"; e.g., if the underproof product is "Blended Whisky," the correct class and type designation would be "Diluted Blended Whisky," followed immediately by the actual proof and the phrase stated above.

Section 5.35(a) of title 27 of the Code of Federal Regulations provides, in part, that the class and type of distilled spirits shall be stated in conformity with the standards of identity set forth in section 5.22 if defined therein. In all other instances the product is required to be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case followed by a truthful and adequate statement of composition. No statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

In view of the various minimum bottling proofs prescribed in section 5.22 and in accordance with section 5.35, the Bureau has established new guidelines for labeling diluted products.

Held, where the minimum bottling proof for various classes and types of distilled spirits prescribed in 27 CFR 5.22 is 80 degrees of proof, the bottling proof of any spirits to be bottled at that proof must be set exactly at such proof in the bottling tank. However, where, through no fault of the proprietor, there is a subsequent loss of proof in the bottling process of not more than three-tenths of a degree of proof, the bottled product retains its eligibility to be labeled in accordance with the class and type prescribed. Conversely, any shading of the proof of any such product through deliberate acts or negligence on the part of the bottler which results in the product being less than 80 proof would render the product ineligible for its original designation and subject it to being labeled as a "Diluted Product."

Held further, (1) The designation of a "Diluted Product" shall include the word "Diluted," followed by the standard class and type designation. There must be stated, immediately following and in direct conjunction with the class and type designation, the actual proof of the product. No part of the designation may appear separately on any portion of the brand label, back label, or strip label.

(2) Where desired by the bottler or required by State regulation, the alcohol content may be stated in percent by volume, provided it appears in direct conjunction with the statement of the actual proof of the product.

(3) The word "Diluted" must be as conspicuous as the statement of class to which it refers and must appear in direct conjunction therewith and in readily legible type on a completely contrasting background. In no event shall it be less than 8-point Gothic caps except in the case of labels on bottles of less than one-half pint capacity in which case it may be smaller than 8-point Gothic caps if readily legible under ordinary conditions.

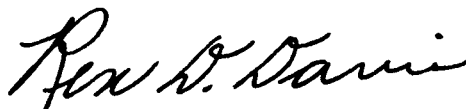
(4) The actual proof must be stated in numerals in script, type, or printing.

(5) The statement "United States Government Standard for _____ Requires Not Less Than _____^o Proof", as set forth in Circular FA-91, is no longer required and is hereby prohibited for use in the labeling of diluted products.

These guidelines are effective immediately and apply to all new label applications for diluted products. The Bureau will permit the use until April 1, 1976, of all previously approved labels for diluted products that do not meet the requirements of this ruling. Label approval certificates for such labels shall be surrendered for cancellation upon depletion of present inventories thereof or upon close of business March 31, 1976, whichever occurs first.

That part of Circular FA-91 which interprets prior section 34(a) of FAA Regulations 5, relating to the labeling of whisky and gin diluted to less than 80^o proof, is superseded.

Inquiries. Inquiries concerning this circular should refer to its number and be addressed to the Assistant Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, D. C. 20226.



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